

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KAREN SERCU, individually and
DANA SERCU, individually, and as
Husband and Wife
Plaintiffs,

3:09-cv-00619-LRH-RAM

v.

**EX PARTE MOTION FOR ORDER
SHORTENING TIME
AND ORDER**

LABORATORY CORPORATION OF
AMERICA dba LabCorp or LabCorp of
Nevada and DOES 1-10,
Defendants.

Less than 60 days before trial, defendant, LabCorp removed this action to the Federal Court for the second time. The historic facts pertaining to the first removal and the intervening events, are set forth in Plaintiffs' Second Motion for Remand and Motion for Sanctions, filed October 14, 2009.

This *ex parte* motion requests the Court shorten the time for defendant, LabCorp to oppose plaintiffs' second Motion for Remand. Prior to filing this *ex parte* motion, the undersigned communicated with counsel for the defendant inquiring of LabCorp's position to stipulate to a shortened response time. LabCorp refused to stipulate.

Exhibit 1.

The undersigned believes there is a good cause for their present *ex parte* Motion for Shortening Time. This matter was removed by the defendant for the second time shortly before the State Court trial scheduled for December 7, 2009 was to occur. It was removed one day prior to a hearing set by the State Court trial judge when it is anticipated the court would inquire about critical evidence withheld by LabCorp, LabCorp's failure to produce a 30(b)(6) witness and otherwise conclude all pretrial matters. Also the defendant inquired if the plaintiffs would consent to a continuance. On each occasion LabCorp was told plaintiffs would not consent to a continuance.

Exhibit 2.

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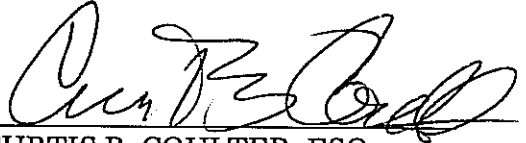
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Counsel for the plaintiffs respectfully request this Court order LabCorp to file and serve its opposition to Plaintiffs' Emergency Second Motion for Remand and Motion for Sanctions no later than 3 days after receipt of this Order, and order plaintiffs to file and serve their reply one day after service of LabCorp's opposition.

RESPECTFULLY SUBMITTED.

DATED: This 14th day of October 2009.



CURTIS B. COULTER, ESQ.

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Reno, Nevada 89501

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F: 775 324 3381

MATTHEW L. SHARP, ESQ.

Nevada State Bar: #4746

Matthew L. Sharp Ltd.

419 Flint St.

Reno, NV 89501

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IT IS SO ORDERED:



LARRY R. HICKS

UNITED STATES DISTRICT JUDGE

DATED: October 20, 2009

INDEX OF EXHIBIT

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|-----------|-------------------------------|---------|
| Exhibit 1 | Emails dated October 14, 2009 | 2 pages |
| Exhibit 2 | Email dated August 24, 2009 | 1 page |

EXHIBIT 1

EXHIBIT 1

Curtis Coulter

From: Curtis Coulter [CCoulter@coulterlaw.net]
Sent: Wednesday, October 14, 2009 4:07 PM
To: 'Fears, Chad'
Cc: 'Matthew Sharp'
Subject: Sercu

Chad, I am writing to confirm that you are not able to agree to a shortened time for LabCorp to respond. You will check with Kelly Evans and let me know if he is able to consent. Thank you for that effort.

In regard to the freeze logs, you informed me that you do not know if LabCorp will voluntarily produce the logs. You suggested I file a formal request for production to obtain the logs.

If my understanding of our conversation is incorrect please inform me promptly.

Curtis B. Coulter
Law Offices of Curtis B. Coulter, P.C.
403 Hill Street,
Reno, Nevada 89501
T: (775) 324.3380
F: (775) 324.3381
Email: ccoulter@coulterlaw.net

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

10/14/2009

Curtis Coulter

From: Curtis Coulter [CCoulter@coulterlaw.net]
Sent: Wednesday, October 14, 2009 4:38 PM
To: Evans, Kelly
Cc: 'Matthew Sharp'; 'Fears, Chad'
Subject: Sercu

Kelly,
I am writing to confirm that you will not stipulate to shortened time for Labcorp to oppose our second motion for remand and sanctions. If I am mistaken please inform me.
Thank you.

Curtis B. Coulter
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10/14/2009

EXHIBIT 2

EXHIBIT 2

From: Curtis Coulter [mailto:CCoulter@coulterlaw.net]
Sent: Monday, August 24, 2009 3:27 PM
To: Fears, Chad
Cc: 'Matthew Sharp'
Subject: RE: Sercu Mediation

How much time will we have left after the mediation? We will work with you to get discovery finished. I will do depositions at night and on weekends if necessary. But, as I have said before our client has told us she will not agree to continue the trial. Chad, I understand and get along well with Mrs. Sercu. She is very nice but wants closure of this issue. I guess having daily bowel seepage has made her a bit irritable.

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